

DEPARTMENT OF SOCIAL SERVICES

744 P Street, Sacramento, CA 95814
(916) 322-4218



March 5, 1980

ALL-COUNTY LETTER NO. 80-18

TO: ALL COUNTY WELFARE DIRECTORS

SUBJECT: FEDERAL REGULATIONS - DISCLOSURE BY TITLE XX CONTRACT PROVIDERS OF
CERTAIN OWNERSHIP INTERESTS AND OTHER RELATED INFORMATION

REFERENCE: 45 CFR 228.72 AND 45 CFR 228.73 (ATTACHMENT I)

This is to inform you of new federal regulations regarding the above subject matter and to request input from your Department to assure compliance with same.

The effects of the above-referenced regulations are twofold:

- 1) 45 CFR 228.72 requires medical or remedial, health-related, and In-Home Supportive Services providers to disclose information about ownership interest.
- 2) Part 228.73 is a separate regulation which requires disclosure of criminal convictions stemming from involvement in Titles XVIII, XIX or XX. Part 228.73 applies to certain public or private entities which have claimed Title XX funds for the purchase of any social service, medical or remedial or health-related In-Home Supportive Services.

We will be including these requirements in the State Department of Social Services' regulations in the near future.

However, in the interim, to remain in compliance with these new regulations, we are enclosing an advance copy of the Disclosure form and instructions on its use. This form must be completed by each of your service providers in accordance with the following criteria:

- 1) The Disclosure form must be completed for all contracts that have been initiated or renewed since July 17, 1979, for which Title XX funds are used.
- 2) All future contracts must have a Disclosure form attached prior to contract execution for approval by the State Department of Social Services.

Existing contracts that were initiated or renewed prior to July 17, 1979, will NOT have to comply with the above requirements.

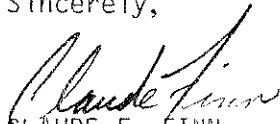
Since a supply of the Disclosure forms is NOT available at this time, it will be necessary for each county to reproduce their own. However, we will notify you when a supply of these forms is available from the State Department of Social Services warehouse.

All County Welfare Departments must return a completed copy of the Disclosure form by April 15, 1980, for each of their service providers who meet the aforementioned criteria, to:

State Department of Social Services
County Third Party Operations
744 P Street, M/S 14-60
Sacramento, CA 95814

If you have any questions or need further clarification regarding the new federal regulations, please contact Cassandra Day at (916) 322-4218.

Sincerely,



CLAUDE E. FINN
Deputy Director

Attachment (2)

cc: CWDA

INSTRUCTIONS FOR COMPLETING THE OWNERSHIP AND CONTROL INTEREST DISCLOSURE STATEMENT (HCFA-1513)

Completion and submission of this form is a prerequisite to participation in programs established by Titles V, XVIII, XIX, AND XX of the Social Security Act.

Special Instructions for Title XX Providers

All title XX providers must complete part II(a) and (b) of this form. Only those title XX providers rendering medical, remedial, or health-related homemaker services must complete all applicable parts.

General Instructions

For definitions, procedures and requirements, refer to the appropriate Regulations:

- Title V - 42CFR 51a.144
- Title XVIII - 42CFR 420.200-206
- Title XIX - 42CFR 455.100-106
- Title XX - 45CFR 228.72-73

Please answer all questions as of the current date. If any item does not apply, write-in N/A.

Return the original and second and third copies to the State agency; retain the first copy for your files. If a return envelope is not provided, the name and address of the State agency may be obtained from the nearest Social Security Office.

Report any substantial delay in completing the form to the State agency.

Detailed Instructions

These instructions are designed to clarify certain questions on the form. Instructions are listed in question order for easy reference. No instructions have been given for questions considered self-explanatory.

IT IS ESSENTIAL THAT ALL APPLICABLE QUESTIONS BE ANSWERED ACCURATELY AND THAT ALL INFORMATION BE CURRENT.

Item I - A chain affiliate is any facility which is part of an organization that consists of a group of two or more health care facilities which are owned, or through any other device, controlled by one organization.

Item II - Self-explanatory.

Item III - Self-explanatory.

Item IV - List the names of all individuals and organizations having direct or indirect ownership interests separately or in combination, amounting to an ownership interest of 5 percent or more in the disclosing entity. Ownership interest is defined as the possession of stock, equity in capital, or any interest in the profits of the

disclosing entity. A disclosing entity is defined as a Medicare provider or supplier, or other entity that furnishes services or arranges for furnishing services under Medicaid or the Maternal and Child Health programs, or health related services under the social service program.

Indirect ownership interest is defined as ownership interest in an entity that has direct or indirect ownership interest in the disclosing entity. The amount of indirect ownership in the disclosing entity that is held by any other entity is determined by multiplying the percentage of ownership interest at each level. An indirect ownership interest must be reported if it equates to an ownership interest of 5 percent or more in the disclosing entity. Example: If A owns 10 percent of the stock in a corporation that owns 80 percent of the stock of the disclosing entity, A's interest equates to an 8 percent indirect ownership and must be reported. Conversely, if B owns 80 percent of the stock of a corporation that owns 5 percent of the disclosing entity, B's interest equates to 4 percent indirect ownership interest and need not be reported.

If the ownership interest is as a result of mortgage, deed of trust, etc., then show this information in Item V.

Item V - To determine whether interest in a mortgage, deed of trust, note, or other obligation must be reported, the percentage of interest owned in the mortgage or other obligation should be multiplied by the percentage of the disclosing entity's assets used to secure the obligation. Example: If A owns 10 percent of a note secured by 60 percent of the provider's assets, A's interest in the provider's assets equates to 6 percent and must be reported. Conversely, if B owns 40 percent of a note secured by 10 percent of the provider's assets, B's interest in the provider's assets equates to 4 percent and need not be reported.

Item VI - Self-explanatory.

Item VII - A subcontractor is defined as an individual, agency, or organization to which a disclosing entity has contracted or delegated some or all of its management functions or responsibilities of providing medical care to its patients.

Item VIII - Self-explanatory.

OWNERSHIP AND CONTROL INTEREST DISCLOSURE STATEMENT

AS A CONDITION OF PARTICIPATION, CERTIFICATION, OR RECERTIFICATION UNDER ANY OF THE PROGRAMS ESTABLISHED BY TITLES V, XVIII, XIX, AND XX, OR AS A CONDITION FOR APPROVAL OR RENEWAL OF A CONTRACT OR AGREEMENT BETWEEN THE DISCLOSING ENTITY AND THE SECRETARY OR APPROPRIATE STATE AGENCY UNDER ANY OF THE ABOVE-TITLED PROGRAMS, A FULL AND ACCURATE DISCLOSURE OF OWNERSHIP AND CONTROL INTEREST IS REQUIRED (42 U.S.C. 1320a-3). FAILURE TO SUBMIT REQUESTED INFORMATION MAY RESULT IN A REFUSAL BY THE SECRETARY OR APPROPRIATE STATE AGENCY TO ENTER INTO AN AGREEMENT OR CONTRACT WITH ANY SUCH INSTITUTION OR IN TERMINATION OF EXISTING AGREEMENTS.

I. IDENTIFYING INFORMATION

NAME OF ENTITY	D/B/A	PROVIDER #	VENDOR #	CONTRACT NO	
				TITLE V	TITLE XX
STREET ADDRESS		CITY, COUNTY, STATE		ZIP CODE	TELEPHONE NO
GOVERNMENT OWNERSHIP		CHAIN AFFILIATE			
<input type="checkbox"/> Yes <input type="checkbox"/> No		<input type="checkbox"/> Yes <input type="checkbox"/> No			

II. ANSWER THE FOLLOWING QUESTIONS BY CHECKING "YES" OR "NO". IF ANY OF THE QUESTIONS ARE ANSWERED "YES", LIST NAMES AND ADDRESSES OF INDIVIDUALS OR CORPORATIONS ON AN ATTACHED SHEET.

- | | YES | NO |
|--|-----|----|
| A. ARE THERE ANY INDIVIDUALS OR ORGANIZATIONS HAVING A DIRECT OR INDIRECT OWNERSHIP OR CONTROL INTEREST OF 5 PERCENT OR MORE IN THE INSTITUTION, ORGANIZATION, OR AGENCY THAT HAVE BEEN CONVICTED OF A CRIMINAL OFFENSE RELATED TO THE INVOLVEMENT OF SUCH PERSONS, OR ORGANIZATIONS IN ANY OF THE PROGRAMS ESTABLISHED BY TITLES XVIII, XIX, OR XX. | | |
| B. ARE THERE ANY DIRECTORS, OFFICERS, AGENTS, OR MANAGING EMPLOYEES OF THE INSTITUTION, AGENCY, OR ORGANIZATION WHO HAVE EVER BEEN CONVICTED OF A CRIMINAL OFFENSE RELATED TO THEIR INVOLVEMENT IN SUCH PROGRAMS ESTABLISHED BY TITLES XVIII, XIX, OR XX. | | |
| C. ARE THERE ANY INDIVIDUALS CURRENTLY EMPLOYED BY THE INSTITUTION, AGENCY, OR ORGANIZATION IN A MANAGERIAL, ACCOUNTING, AUDITING, OR SIMILAR CAPACITY WHO WERE EMPLOYED BY THE INSTITUTION'S, ORGANIZATION'S, OR AGENCY'S FISCAL INTERMEDIARY OR CARRIER WITHIN THE PREVIOUS 12 MONTHS. | | |

(Title XVIII providers only)

IF YOU NEED ADDITIONAL SPACE FOR ANY OF THE FOLLOWING ITEMS, ATTACH A SEPARATE SHEET AND CLEARLY INDICATE WHICH ITEM IS BEING CONTINUED. IF MORE THAN ONE INDIVIDUAL IS REPORTED AND ANY OF THE PERSONS NAMED ARE RELATED TO EACH OTHER (E.G., SPOUSE, CHILD, PARENT, SIBLING), THIS MUST BE REPORTED AND SHOULD BE INDICATED ON THE FORM.

III. TYPE OF ENTITY

- | | |
|---|--|
| <input type="checkbox"/> SOLE PROPRIETORSHIP | A. IF SOLE PROPRIETORSHIP, LIST NAME OF OWNER: _____ |
| <input type="checkbox"/> PARTNERSHIP | B. IF PARTNERSHIP, LIST NAMES OF PARTNERS: _____ |
| <input type="checkbox"/> CORPORATION | C. IF CORPORATION, GIVE NAME OF CORPORATION: _____ |
| <input type="checkbox"/> OTHER (SPECIFY): _____ | |

IV. LIST NAMES AND ADDRESSES OF INDIVIDUALS OR ORGANIZATIONS HAVING DIRECT OR INDIRECT OWNERSHIP INTERESTS, SEPARATELY OR IN COMBINATION, AMOUNTING TO AN OWNERSHIP INTEREST OF 5 PERCENT OR MORE IN THE DISCLOSING ENTITY. INDIRECT OWNERSHIP INTEREST IS OWNERSHIP INTEREST IN AN ENTITY THAT HAS AN OWNERSHIP INTEREST IN THE DISCLOSING ENTITY. OWNERSHIP IN ANY ENTITY HIGHER IN A PYRAMID THAN THE DISCLOSING ENTITY CONSTITUTES INDIRECT OWNERSHIP.

NAME	ADDRESS

V. LIST NAMES AND ADDRESSES OF INDIVIDUALS OR ORGANIZATIONS HAVING OWNERSHIP INTEREST (EQUAL TO AT LEAST 5 PERCENT OF THE ENTITY'S ASSETS) IN A MORTGAGE OR OTHER OBLIGATION SECURED BY THE DISCLOSING ENTITY.

NAME

ADDRESS

VI. IF THE DISCLOSING ENTITY IS A CORPORATION, LIST NAMES, ADDRESSES, AND TITLES OF THE OFFICERS AND DIRECTORS.

A. OFFICERS

NAME	TITLE	ADDRESS
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B. DIRECTORS

VII. LIST NAMES AND ADDRESSES OF ANY INDIVIDUALS OR ORGANIZATIONS THAT HAVE AN OWNERSHIP OR CONTROL INTEREST OF 5 PERCENT OR MORE IN A SUBCONTRACTOR IN WHICH THE DISCLOSING ENTITY HAS A DIRECT OR INDIRECT OWNERSHIP INTEREST OF 5 PERCENT OR MORE. (ALSO, LIST NAMES AND ADDRESSES OF THOSE SUBCONTRACTORS ON AN ATTACHED SHEET.)

NAME

ADDRESS

VIII. LIST NAMES OF OTHER DISCLOSING ENTITIES IN WHICH ANY OF THE PERSONS IDENTIFIED IN SECTIONS III THROUGH VII ALSO HAVE AN OWNERSHIP OR CONTROL INTEREST. (THIS INFORMATION IS REQUIRED TO THE EXTENT THAT THE REPORTING ENTITY CAN OBTAIN IT BY REQUESTING IT IN WRITING FROM THE PERSON.)

NAMES

OTHER DISCLOSING ENTITIES

WHOEVER KNOWINGLY AND WILLFULLY MAKES OR CAUSES TO BE MADE A FALSE STATEMENT OR REPRESENTATION ON THIS STATEMENT, MAY BE PROSECUTED UNDER APPLICABLE FEDERAL OR STATE LAWS. IN ADDITION, KNOWINGLY AND WILLFULLY FAILING TO FULLY AND ACCURATELY DISCLOSE THE INFORMATION REQUESTED MAY RESULT IN DENIAL OF A REQUEST TO PARTICIPATE OR WHERE THE ENTITY ALREADY PARTICIPATES, A TERMINATION OF ITS AGREEMENT OR CONTRACT WITH THE STATE AGENCY OR THE SECRETARY, AS APPROPRIATE.

NAME OF AUTHORIZED REPRESENTATIVE (TYPED)

TITLE

SIGNATURE

DATE

information about ownership and

business transactions. (a) *Definitions.*

For purposes of this section, § 228.70,

and § 229.9, the following definitions

apply: (1) *Agent* means any person (including a corporation, where applicable) to whom a provider delegates the authority to obligate or act. (2) *Convicted* means that a Federal, State or local court has entered a judgment of conviction, regardless of whether an appeal from that judgment is pending. (3) *Group of practitioners* means two or more providers of medical or remedial care who practice their profession at a common location (whether or not they share common facilities, common supporting staff, or common equipment). (4) *Health-related homemaker services* means homemaker services provided for persons who need personal care and other appropriate services in the home because they have medical problems. (5) *Indirect ownership interest* means any ownership interest in an entity that has ownership interest in the provider. The term includes an ownership interest in any entity that has an indirect ownership interest in the provider. (6) *Managing employee* means a general manager, business manager, administrator, director or other individual who exercises operational or managerial control over the hospital, nursing facility, or other institution, organization, or agency, or who, directly or indirectly, conducts the day-to-day operations of the institution.

(7) *Other disclosing entity* means any other title XX disclosing entity and any entity that does not participate in title XX, but is required to disclose certain information of ownership or control because of participation in any of the programs established under titles V, XVIII, or XIX of the Social Security Act. This includes:

(i) A provider, an independent clinical laboratory, a renal disease facility, a rural health clinic, or a health maintenance organization (as defined in section 1301(a) of the Public Health Service Act) furnishing services under the Medicare program;

(ii) An entity (other than an individual practitioner or group of practitioners) that furnishes, or arranges for the furnishing of, items or services for which payment may be claimed by the entity under any plan or program established under title V of the Act or under a State Medicaid plan; or

(iii) A carrier or other agency or organization that is acting as a fiscal intermediary or agent for one or more providers of services for purposes of Part A or Part B of Medicare of the Act,

or both, or for purposes of a State Medicaid plan.

(8) *Ownership interests* means the possession of equity in the capital, the stock, or the profits of the provider.

(9) *Person with an ownership or control interest* means a person (including, where appropriate, a corporation) who:

(i) Has an ownership interest of 5 percent or more in the provider;

(ii) Has an indirect ownership interest equal to 5 percent or more in the provider;

(iii) Has a combination of direct and indirect ownership interests equal to 5 percent or more in the provider;

(iv) Is the owner of an interest of 5 percent or more in any obligation secured by the provider, if the interest equals at least 5 percent of the value of the property or assets of the provider;

(v) Is an officer or director of a provider which is organized as a corporation or association; or

(vi) Is a partner in a provider which is organized as a partnership.

(10) *Provider* means a private non-profit or for-profit nongovernmental party (other than an individual practitioner or group of practitioners) which is under contract with the State or local agency or under sub-contract with a public or private agency to deliver medical or remedial care or health-related homemaker services funded under title XX.

(11) *Significant business transaction* means any business transaction or series of transactions which, during any one fiscal year, exceeds the lesser of either \$25,000 and 5 percent of the total operating expenses of the provider.

(12) *Subcontractor* means an individual agency, or organization which by contract:

(i) Assumes major management functions of a provider (including determination of eligibility); or

(ii) Agrees to deliver specific services which a provider has agreed to deliver under contract with the State or local agency.

(13) *Supplier* means an entity from which a provider purchases goods and services used in fulfilling a contract with the State or local agency.

(14) *Wholly owned supplier* means a supplier wholly owned by the provider or wholly owned by a person or persons holding ownership or control interests in the provider.

(b) *Disclosure about ownership and control interests.* (1) Prior to the approval of a contract for the purchase of medical or remedial care or health-related homemaker services, a private

provider must furnish to the State or local agency:

(i) The name and address of each person with an ownership or control interest in the provider and any subcontractor in which the provider has direct or indirect ownership of 5 percent or more; and

(ii) The name and address of any other private provider or any other disclosing entity in which a person with an ownership or control interest in the provider also has an ownership or control interest. The provider shall request this information in writing from any person with an ownership or control interest in the provider. The provider shall also keep copies of all these requests and the responses to them, make them available to the Secretary or the State agency upon request, and advise the State agency when there is no response to a request.

(2) If a provider reports more than one name of persons described in paragraph (b)(1) of this section, and any of the persons named are related to each other as spouse, parent, child, or sibling, it shall report this fact.

(c)(1) A State or local agency shall not approve or renew a contract or shall terminate an existing contract with a private provider of medical or remedial care or of health-related homemaker services, if the provider fails to disclose ownership or control information required under this section.

(2) Federal financial participation is not available for payments made to a private provider who fails to disclose ownership or control information as required by this section.

(d) *Disclosure about certain business transactions.* (1) A private provider of medical or remedial care or of health-related homemaker services shall provide, in response to a specific written request by the Secretary or State agency, complete information about:

(i) The ownership of any subcontractor with whom the provider has had business transactions totaling more than \$25,000 during the 12-month period ending on the date of the request; and

(ii) Any significant business transactions between the provider and any wholly owned supplier, or between the provider and any subcontractor, during the 5-year period ending on the date of the request.

(2) The provider shall furnish such information within 35 days of a request of the Secretary, and shall respond to a request by a State agency within the period specified in regulations of the State agency.

(3) FFP is not available in expenditures for medical or remedial care or health-related homemaker services furnished by a provider who fails to comply with subparagraphs (1) and (2) of this paragraph.

§ 225.73 Disclosure of information about individuals convicted of crimes.

(a) *Disclosure.* (1) Any hospital, nursing facility, or other institution, organization, or agency for which funding is, or will be, claimed under title XX for the purchase of any social service, medical or remedial care, or health-related homemaker services shall disclose to the State title XX agency, the name of any person:

(i) Who has an ownership or control interest in, or is an agent or managing employee of, the hospital, nursing facility, institution, organization, or agency; and

(ii) Who has been convicted of a criminal offense related to the person's involvement in any programs under titles XVIII, XIX, or XX of the Social Security Act since the inception of these programs.

(2) This requirement applies to purchases made under a purchase of services contract or those made under an administrative support contract. It also applies whether the services are provided directly or under a subcontract.

(3) This information shall be provided to the State agency prior to the approval or renewal of a contract for purchase of social services, medical or remedial care, or health-related homemaker services.

(b) *Reports to the Inspector General.* The State agency shall notify the Inspector General of the Department of Health, Education, and Welfare within 20 working days of the receipt of any application or request for participation which discloses the name of a person described in paragraph (a), and shall provide the name to the Inspector General. The State agency shall also notify the Inspector General of any action it takes on the application or request.

(c) *State agency denial or termination of provider participation.* (1) The State agency may refuse to enter into or renew a purchase of services contract, or otherwise refuse to approve a provider for participation under title XX, if any person who has an ownership or control interest in the provider, or who is an agent or managing employee of the provider, has been convicted of a criminal offense related to that person's involvement in any program established

under titles XVIII, XIX, or the title XX social services program.

(2) The State agency may refuse to enter into or may terminate a contract if it determines that the provider did not fully and accurately make any disclosure required under paragraph (a) of this section.

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